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20 UNITED STATES DISTRICT COURT
21 NORTHERN DISTRICT OF CALIFORNIA

22 DAVID STEBBINS,)	CASE NO.: 3:23-cv-00322-TLT
)	
23 Plaintiff,)	DECLARATION OF JASON
)	MOLLICK, ESQ. IN SUPPORT OF
24 v.)	DEFENDANT GOOGLE LLC'S
)	MOTION TO DISMISS AND TO
25 GOOGLE LLC,)	DECLARE PLAINTIFF A
)	VEXATIOUS LITIGANT
26 Defendant.)	

27 Judge: Hon. Trina L. Thompson

28 Action Filed: January 20, 2023

1 I, Jason Mollick, Esq., declare as follows:

2 1) I am Senior Counsel at the law firm of Wilson Sonsini Goodrich & Rosati, P.C.,
3 counsel for Defendant Google LLC (“Google”) in this action. I submit this Declaration in support
4 of Google’s accompanying Motion to Dismiss and to Declare Plaintiff a Vexatious Litigant. I
5 have personal knowledge of the facts and circumstances described below, and would testify to
6 them if called upon as a witness.

7 2) In his Complaint (Dkt. 5) Plaintiff alleges that a YouTube channel operated by a
8 third-party user, called “Acerthorn The True Acerthorn,” directly infringed his copyright in a
9 livestream video by taking a screenshot of Plaintiff’s face from that video and using it for the
10 channel’s icon. Compl. ¶¶ 5-10. Google contends in its Motion to Dismiss that the channel’s use
11 of the screenshot was “fair use” under Section 107 of the Copyright Act, 17 U.S.C. § 107.

12 3) Although the “Acerthorn The True Acerthorn” channel and icon were formerly
13 available on YouTube at <https://www.youtube.com/@acerthornthetrueacerthorn4532> (see Compl.
14 ¶ 11), I understand that the channel was taken down by the channel operator shortly after Plaintiff
15 filed his Complaint.

16 4) Upon learning that the “Acerthorn The True Acerthorn” channel had been taken
17 down, on January 26, 2023, I utilized an online tool called the WayBack Machine (available at
18 <https://archive.org/web/>) which captures still-images of websites as they appeared at certain points
19 in the past. Attached as Exhibit A is a WayBack image of the relevant channel taken on July 9,
20 2022—the most recent image available on the WayBack site. The image shows the textual and
21 certain visual contents of the channel as it existed on that date, but it does not capture the channel
22 icon. I was unable to locate a WayBack image that includes the icon at issue. A copy of that icon
23 is attached separately to the Declaration of Neha Reddy.

24 5) As described in the accompanying Motion, below is a list of Plaintiff’s prior cases,
25 along with citations to certain relevant docket entries, which the Court should consider in
26 determining whether to declare Plaintiff a vexatious litigant:
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- 1 • *Stebbins v. Google, Inc.*, Case No. 5:11-cv-03876-LHK (N.D. Cal. filed Aug.
2 8, 2011) – Dkts. 1 (Motion to Confirm Arbitration Award), 14 (Dismissal
3 Order), and 15 (Denying Mandamus Petition).
- 4 • *Stebbins v. Microsoft, Inc.*, Case No. 2:11-cv-01362-JCC (W.D. Wash. filed
5 Aug. 15, 2011) – Dkts. 2 (Complaint) and 38 (Dismissal Order).
- 6 • *Stebbins v. Texas*, Case No. 3:11-cv-02227-N (N.D. Tex. filed Aug. 29, 2011)
7 – Dkts. 2 (Motion to Confirm Arbitration Award), 7 (Amended Complaint),
8 and 19 (Dismissal Order).
- 9 • *David Stebbins v. USDC-CASJ*, No. 11-72595 (9th Cir. docketed Sept. 2,
10 2011) – Petition for Writ of Mandamus (re: *Stebbins v. Google*).
- 11 • *Stebbins v. Microsoft, Inc.*, No. 12-35082 (9th Cir. docketed Jan. 27, 2012).
- 12 • *Stebbins v. Bradford*, Case No. 3:12-cv-03131-PKH (W.D. Ark. filed Oct. 4,
13 2012) – Dkts. 1 (Complaint) and 9 (Dismissal Order).
- 14 • *Stebbins v. Stebbins*, Case No. 3:12-cv-3130-PKH (W.D. Ark. filed Oct. 4,
15 2012) – Dkts. 1 (Complaint), 10 (Dismissal and Sanctions Order), 35
16 (Denying Mandamus Petition), and 38 (Denial of Petition for Writ of
17 Certiorari).
- 18 • *Stebbins v. Steen*, Case No. 4:12-cv-00704-KGB (E.D. Ark. filed Nov. 8,
19 2012) – Dkts. 2 (Complaint) and 4 (Dismissal Order).
- 20 • *Stebbins v. Bradford*, No. 13-2689 (8th Cir. docketed Aug. 1, 2013).
- 21 • *Stebbins v. Stebbins*, No. 14-1845 (8th Cir. docketed Apr. 10, 2014).
- 22 • *Stebbins v. Hixson*, Case No. 3:18-cv-3040-TLB (W.D. Ark. filed Apr. 2,
23 2018) – Dkts. 2 (Complaint), 6 (Amended Complaint), 32 (Dismissal Order),
24 41 (Denial of Motion for Relief from Judgement), and 45 (Dismissal of Notice
25 of Appeal).
- 26 • *Stebbins v. Polano*, Case No. 21-cv-04184-JSW (N.D. Cal. filed June 2, 2021)
27 – 2022 U.S. Dist. LEXIS 121919 (N.D. Cal. July 11, 2022); *see also* Dkts. 56,
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1 57, 81, 88, 128, 129, 130, 134, 135, 139, 141, 142, 143, 145, 147, 148, 150,
2 152, 153, 157-1, 158, 161, 176.

- 3 • *Stebbins v. Emily Rebolo*, Case No. 22-cv-00546-JSW (N.D. Cal. filed Jan.
4 27, 2022) – 2022 U.S. Dist. LEXIS 121844 (N.D. Cal. July 11, 2022); *see also*
5 Dkts. 16-19.
- 6 • *David Stebbins v. USDC-CAOAK*, No. 22-70132 (9th Cir. docketed June 28,
7 2022) – Petition for Writ of Mandamus (re: *Stebbins v. Polano*).
- 8 • *David Stebbins v. USDC-CAOAK*, No. 22-70269 (9th Cir. docketed Dec. 13,
9 2022) – Petition for Writ of Mandamus (re: *Stebbins v. Polano* and *Stebbins v.*
10 *Rebolo*).

11 I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true
12 and correct. Executed on March 6, 2023 in Eastchester, New York.

13 By: s/ Jason Mollick
14 Jason Mollick
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